



## **National Highway Traffic Safety Administration**

### **Petition for Exemption from the Federal Motor Vehicle Theft Prevention Standard;**

#### **General Motors, LLC**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Grant of petition for exemption.

**SUMMARY:** This document grants in full the General Motors, LLC's (GM) petition for exemption from the Federal Motor Vehicle Theft Prevention Standard (theft prevention standard) for its Buick Envision line beginning in model year (MY) 2023. The petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard.

**DATES:** The exemption granted by this notice is effective beginning with the 2023 model year.

**FOR FURTHER INFORMATION CONTACT:** Carlita Ballard, Office of International Policy, Fuel Economy, and Consumer Programs, NHTSA, West Building, W43-439, NRM-310, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590. Ms. Ballard's phone number is (202) 366-5222. Her fax number is (202) 493-2990.

**SUPPLEMENTARY INFORMATION:** Under 49 U.S.C. chapter 331, the Secretary of Transportation (and the National Highway Traffic Safety Administration (NHTSA) by delegation) is required to promulgate a theft prevention standard to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft. NHTSA promulgated regulations at 49 CFR part 541 (theft prevention standard) to require parts-marking for specified passenger motor vehicles and light trucks. Pursuant to 49 U.S.C. 33106, manufacturers that are subject to the parts-marking requirements may petition the Secretary of Transportation for an exemption for a line of passenger motor vehicles equipped with an antitheft

device as standard equipment that the Secretary decides is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements. In accordance with this statute, NHTSA promulgated 49 CFR part 543, which establishes the process through which manufacturers may seek an exemption from the theft prevention standard.

49 CFR 543.5 provides general submission requirements for petitions and states that each manufacturer may petition NHTSA for an exemption of one vehicle line per model year. Among other requirements, manufacturers must identify whether the exemption is sought under section 543.6 or section 543.7. Under section 543.6, a manufacturer may request an exemption by providing specific information about the antitheft device, its capabilities, and the reasons the petitioner believes the device to be as effective at reducing and deterring theft as compliance with the parts-marking requirements. Section 543.7 permits a manufacturer to request an exemption under a more streamlined process if the vehicle line is equipped with an antitheft device (an “immobilizer”) as standard equipment that complies with one of the standards specified in that section.<sup>1</sup>

Section 543.8 establishes requirements for processing petitions for exemption from the theft prevention standard. As stated in section 543.8(a), NHTSA processes any complete exemption petition. If NHTSA receives an incomplete petition, NHTSA will notify the petitioner of the deficiencies. Once NHTSA receives a complete petition the agency will process it and, in accordance with section 543.8(b), will grant the petition if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in

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<sup>1</sup> 49 CFR 543.7 specifies that the manufacturer must include a statement that their entire vehicle line is equipped with an immobilizer that meets one of the following standards:

(1) The performance criteria (subsections 8 through 21) of C.R.C, c. 1038.114, Theft Protection and Rollaway Prevention (in effect March 30, 2011), as excerpted in appendix A of [part 543];

(2) National Standard of Canada CAN/ULC-S338-98, Automobile Theft Deterrent Equipment and Systems: Electronic Immobilization (May 1998);

(3) United Nations Economic Commission for Europe (UN/ECE) Regulation No. 97 (ECE R97), Uniform Provisions Concerning Approval of Vehicle Alarm System (VAS) and Motor Vehicles with Regard to Their Alarm System (AS) in effect August 8, 2007; or

(4) UN/ECE Regulation No. 116 (ECE R116), Uniform Technical Prescriptions Concerning the Protection of Motor Vehicles Against Unauthorized Use in effect on February 10, 2009.

reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541.

Section 543.8(c) requires NHTSA to issue its decision either to grant or to deny an exemption petition not later than 120 days after the date on which a complete petition is filed. If NHTSA does not make a decision within the 120-day period, the petition shall be deemed to be approved and the manufacturer shall be exempt from the standard for the line covered by the petition for the subsequent model year.<sup>2</sup> Exemptions granted under part 543 apply only to the vehicle line or lines that are subject to the grant and that are equipped with the antitheft device on which the line's exemption was based, and are effective for the model year beginning after the model year in which NHTSA issues the notice of exemption, unless the notice of exemption specifies a later year.

Sections 543.8(f) and (g) apply to the manner in which NHTSA's decisions on petitions are to be made known. Under section 543.8(f), if the petition is sought under section 543.6, NHTSA publishes a notice of its decision to grant or deny the exemption petition in the Federal Register and notifies the petitioner in writing. Under section 543.8(g), if the petition is sought under section 543.7, NHTSA notifies the petitioner in writing of the agency's decision to grant or deny the exemption petition.

This grant of petition for exemption considers General Motors, LLC's (GM) petition for its Buick Envision vehicle line beginning in MY 2023.

#### **I. Specific Petition Content Requirements under 49 CFR 543.6**

Pursuant to 49 CFR Part 543, Exemption from Vehicle Theft Prevention, GM petitioned for an exemption for its specified vehicle line from the parts-marking requirements of the theft prevention standard, beginning in MY 2023. GM petitioned under 49 CFR 543.6, Petition: Specific content requirements, which, as described above, requires manufacturers to provide

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<sup>2</sup> 49 U.S.C. 33106(d).

specific information about the antitheft device installed as standard equipment on all vehicles in the line for which an exemption is sought, the antitheft device's capabilities, and the reasons the petitioner believes the device to be as effective at reducing and deterring theft as compliance with the parts-marking requirements.

More specifically, section 543.6(a)(1) requires petitions to include a statement that an antitheft device will be installed as standard equipment on all vehicles in the line for which the exemption is sought. Under section 543.6(a)(2), each petition must list each component in the antitheft system, and include a diagram showing the location of each of those components within the vehicle. As required by section 543.6(a)(3), each petition must include an explanation of the means and process by which the device is activated and functions, including any aspect of the device designed to: (1) facilitate or encourage its activation by motorists; (2) attract attention to the efforts of an unauthorized person to enter or move a vehicle by means other than a key; (3) prevent defeating or circumventing the device by an unauthorized person attempting to enter a vehicle by means other than a key; (4) prevent the operation of a vehicle which an unauthorized person has entered using means other than a key; and (5) ensure the reliability and durability of the device.<sup>3</sup>

In addition to providing information about the antitheft device and its functionality, petitioners must also submit the reasons for their belief that the antitheft device will be effective in reducing and deterring motor vehicle theft, including any theft data and other data that are available to the petitioner and form a basis for that belief,<sup>4</sup> and the reasons for their belief that the agency should determine that the antitheft device is likely to be as effective as compliance with the parts-marking requirements of part 541 in reducing and deterring motor vehicle theft. In support of this belief, the petitioners should include any statistical data that are available to the petitioner and form the basis for the petitioner's belief that a line of passenger motor vehicles

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<sup>3</sup> 49 CFR 543.6(a)(3).

<sup>4</sup> 49 CFR 543.6(a)(4).

equipped with the antitheft device is likely to have a theft rate equal to or less than that of passenger motor vehicles of the same, or a similar, line which have parts marked in compliance with Part 541.<sup>5</sup>

The following sections describe GM's petition information provided pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention. To the extent that specific information in GM's petition is subject to a properly filed confidentiality request, that information was not disclosed as part of this notice.<sup>6</sup>

## **II. GM's Petition for Exemption**

In a petition originally dated July 21, 2021 and re-submitted on May 5, 2022, GM requested an exemption from the parts-marking requirements of the theft prevention standard for the Buick Envision vehicle line beginning with MY 2023.

In its petition, GM provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its Buick Envision vehicle line. Key components of the antitheft device include a PASS-Key III+ controller, integrated within the body control module (BCM), engine control module (ECM), an electronically-coded ignition key, a radio frequency (RF) receiver, three passive low frequency antennas, and a diagram of the locations of the components. GM stated that the PASS-Key III+ immobilizer device is designed to be active at all times without direct intervention by the vehicle operator.

Pursuant to Section 543.6(a)(3), GM explained that its PASS-Key III+ system is activated immediately after the ignition has been turned off and the key has been removed and deactivation of the antitheft device occurs automatically when the engine is started.

GM stated that the Buick Envision vehicle line will be installed with the PASS-Key III+ as standard equipment on its entire vehicle line. GM stated that with its "keyless" ignition system, an electronic key fob performs normal remote keyless entry functions and communicates

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<sup>5</sup> 49 CFR 543.6(a)(5).

<sup>6</sup> 49 CFR 512.20(a).

with the vehicle without direct owner intervention. Specifically, during operation of the vehicle, when the owner presses the engine start/stop switch, the vehicle transmits a randomly generated challenge and vehicle identifier within the passenger compartment of the vehicle via three low-frequency antennas, controlled by the passive antenna module. The electronic key receives the data and if the vehicle identifier matches that of the vehicle, the electronic key will calculate the response to the vehicle using the challenge and secret information shared between the key and the vehicle. The electronic key then transmits the response via a radio frequency channel to a vehicle mounted receiver, conveying the information to the PASS-Key III+ control module. The PASS-Key III+ control module compares the received response with an internally calculated response. If the values match, the device will allow the vehicle to enter functional modes and transmit a fixed code pre-release password to the engine controller over the serial data bus, and enable computation and communication of a response to any valid challenge received from the engine controller. If a valid key is not detected, the system will not transmit a fixed code pre-release password to the engine controller and fuel will not be delivered to the engine and the starter will not be enabled, so the vehicle will be immobilized.

As required in section 543.6(a)(3)(v), GM provided information on the reliability and durability of its proposed device as required by section. To ensure reliability and durability of the device, GM followed its own standards in assessing reliability and conducted tests to validate the integrity, durability and reliability of the PASS-Key III+ device, including tests for high temperature storage, low temperature storage, thermal shock, humidity, frost, salt fog, flammability and others. GM further stated that the design and assembly processes of the PASS-Key III+ subsystem and components are validated for 10 years of vehicle life and 150,000 miles of performance.

GM believes that its antitheft device will be as effective as or more effective than the parts-marking requirement in reducing and deterring vehicle theft, and in accordance with 49 CFR 543.6(a)(5), GM referenced data provided by the American Automobile Manufacturers

Association (AAMA) in support of the effectiveness of GM's PASS-Key devices in reducing and deterring motor vehicle theft, and stated that the PASS-Key III+ device has been designed to enhance the functionality and theft protection provided by its first, second and third generation PASS-Key, PASS-Key II, and PASS-Key III devices. Specifically, GM stated that data which provide the basis for GM's confidence that the PASS-Key III+ system will be effective in reducing and deterring motor vehicle theft are contained in the response of the American Automobile Manufacturers Association (AAMA) to Docket 97-042; Notice I (NHTSA Request for Comments on its preliminary Report to Congress on the effects of the Anti Car Theft Act of 1992 and the Motor Vehicle Theft Law Enforcement Act of 1984). In the Report to Congress, AAMA stated the more recent antitheft systems are more effective in reducing auto theft.

GM also stated that theft rate data have indicated a decline in theft rates for vehicle lines equipped with comparable devices that have received full exemptions from the parts-marking requirements. GM stated that the theft rate data, as provided by the Federal Bureau of Investigation's National Crime Information Center (NCIC) and compiled by the agency, show that theft rates are lower for exempted GM models equipped with the PASS-Key-like systems than the theft rates for earlier models with similar appearance and construction that were parts-marked.

GM stated that the theft rate data from NHTSA's vehicle theft rate search were used to plot the Chevrolet Equinox theft rate for the available years 2005 - 2014. GM stated that the Equinox is an SUV of similar size which is equipped with the PASS-Key III+ system. GM also stated that the theft rate dropped after the parts-marking exemption was granted in 2009.

GM believes that the agency should find that inclusion of PASS-Key III+ as standard equipment on the 2023 Buick Envision vehicle line is sufficient to qualify this vehicle line for full exemption from 49 CFR part 541 requirements. This belief is supported not only by GM's proven success in reducing the theft rates of its carlines, but also by the high value the agency itself places on "passive activation" as a functional dimension of theft deterrent systems.

Based on the performance of the PASS-Key, PASS-Key II, and PASS-Key III devices on other GM models, and the advanced technology utilized in PASS-Key III+, GM believes that the PASS-Key III+ device will be more effective in deterring theft than the parts-marking requirements of 49 CFR part 541.

### **III. Decision to Grant the Petition**

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.8(b), the agency grants a petition for exemption from the parts-marking requirements of part 541, either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The agency finds GM has provided adequate reasons for its belief that the antitheft device for its vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard. This conclusion is based on the information GM provided about its antitheft device. NHTSA believes, based on GM's supporting evidence, the antitheft device described for its vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard.

The agency concludes that GM's antitheft device will provide four of the five types of performance features listed in section 543.6(a)(3)<sup>7</sup>: promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

The agency notes that 49 CFR Part 541, Appendix A-1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR 543.8(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing,

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<sup>7</sup> See, e.g., 70 FR 74107 (Dec. 14, 2005). NHTSA has previously concluded that the lack of a visual or audio alarm has not prevented some antitheft devices from being effective protection against theft, where the theft data indicate a decline in theft rates for vehicle lines that have been equipped with devices similar to that what the petitioner is proposing to use.



including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If GM decides not to use the exemption for its requested vehicle line, the manufacturer must formally notify the agency. If such a decision is made, the line must be fully marked as required by 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if GM wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.8(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, section 543.10(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in the exemption."

The agency wishes to minimize the administrative burden that section 543.10(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be de minimis. Therefore, NHTSA suggests that if GM contemplates making any changes, the effects of which might be characterized as de minimis, it should consult the agency before preparing and submitting a petition to modify.

For the foregoing reasons, the agency hereby grants in full GM's petition for exemption for the Buick Envision vehicle line from the parts-marking requirements of 49 CFR part 541, beginning with its MY 2023 vehicles.

Issued under authority delegated in 49 CFR 1.95, 501.5 and 501.8.

**Milton E. Cooper,**

*Director,*

*Rulemaking Operations.*

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